

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

BEN A. THOMAS, INC.,

Debtor.

Case No. A04-00716-DMD

Chapter 7

**Filed On
6/14/05**

MEMORANDUM REGARDING DISGORGEMENT OF FEES

An involuntary petition was filed against the debtor on July 2, 2004. Shortly thereafter, the order for relief was entered on August 18, 2004. In the gap period Hartig Rhodes Hoge and Lekisch, P.C. applied a \$25,000.00 payment to pre-petition fees. Receipt of the payment by Hartig Rhodes Hoge & Lekisch, P.C. was an unauthorized post-petition transfer under 11 U.S.C. § 549(a). The trustee can recover those funds. The transfer created a conflict for Hartig Rhodes from the inception of the case. There is no grounds for allowing retroactive employment. Nor are there grounds for allowing compensation under 11 U.S.C. § 331(a)(1).

DATED: June 14, 2005.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

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06/14/05